



Rowan County Planning and Development Department

402 North Main Street • Salisbury, N.C. 28144-4341

Building Inspections: 704-216-8619

Planning: 704-216-8588

Fax: 704-638-3130

TO: Chairman Hill and Rowan County Planning Board

FROM: Andrew Goodall, Planner

DATE: March 10, 2010

RE: **PCUR 01-10**

Owner(s): James & Dianne Quantz

Applicant(s): Grey Savage, Bible Missionary Baptist Church

RA to INST-CUD TP: 422 142

2,600ft² Transition Home

PLANNING BOARD ACTION

- ☐ Receive Staff Report
- ☐ Petitioner comments
- ☐ Conduct hearing
- ☐ Close hearing and discuss case
- ☐ Grant, Deny, or Table for **PCUR 01-10**

SUMMARY

Bible Missionary Baptist Church is in the process of making payments to finalize the purchase of tax parcel (422 142) located at 140 Happy Lake Road, approximately 730' from the intersection of Happy Lake Road and NC Highway 152. The 4.13-acre parcel is currently zoned Rural Agricultural (RA) and contains a vacant singlewide mobile home that appears to have been previously used as a church and an occupied singlewide mobile home (See *Attachment E*).

The applicant, Mr. Grey Savage of the *Bible Missionary Baptist Church* and its new ministry, *The Refuge Transitional House*, has inquired about the construction of a 2,600ft² residence on parcel (442 142) that would be used to "provide a place for adult men and women who have been in custody by the state for many years and are being released, and have nowhere to go" (See *Attachment C&F* for further details). Transitional houses are subject to state regulation if they qualify and receive state funding. Current financial policy disqualifies transitional houses owned and operated by religious institutions from receiving funding, therefore the proposed use would only be subject to local zoning and building code. Under current zoning, transitional houses (SIC 8322 – Individual & Family Social Services) are permitted by right in the Commercial, Business Industrial (CBI) and as a conditional use in the Industrial (IND) and Institutional (INST) districts.

The applicant requests that 2.52-acres of parcel (442 142) be rezoned from *RA* to *INST-CUD* to allow for the construction of a 2,600ft² residential structure that is to be used as a transitional house (See *Attachment A&C*).

STAFF REVIEW: General Criteria

In accordance with Article XIV Section 21-362 (i), staff provides the following review:

ZONING CRITERIA

1. Relationship and conformity with any plans and policies.

Plans: N/A

Policies: The applicant has provided the Planning Board encouraged site-specific plan for the *INST* request, which ensures the property will not be changed to another use without Board action and provides the option of mutually agreed upon conditions to further ensure compatibility.

2. Consistency with the requested zoning district's purpose and intent.

Purpose: The purpose of the *INST* district is to permit the creation of defined areas for the development of major cultural, educational, medical, governmental, religious and other institutions to support and enhance the community, while protecting adjacent residential uses. The proposed use (transitional house) would provide needed support to those individuals rejoining the community from prison and the site-specific plan provides the option of using mutually agreed upon conditions to protect adjacent residential uses.

3. Compatibility of all uses within the proposed district classification with other properties and conditions in the vicinity.

Compatibility of uses:

Adjoining Uses and Zoning Districts		
Direction	Existing Uses	Zoning Districts
North	Residential / Mobile Home	RA
East	Residential	RA
South	Residential / Mobile Home	RA
West	Woodland/Residential	RA

Conditions in the vicinity: See *Attachment D – Area Overview*

4. Potential impact on facilities such as roads, utilities and schools.

Roads: According to the North Carolina Department of Transportation, volume in 2006 (most recent count taken) for Happy Lake Road (SR 2559) was 880 daily trips. Similar thoroughfare roads with sixteen (16) feet of pavement width have a capacity of 6,000 daily trips, meaning in 2006 the volume to capacity for Happy Lake Road was only 14.7%. The additional daily trips generated by a four (4) bedroom transition house would be similar to that of two (2) duplexes and should have minimal impact on the existing transportation infrastructure.

Utilities and Schools- N/A

CONDITIONAL USE CRITERIA

Refer to *Attachment B* for applicant provided responses and staff comments to the Evaluation Criteria provided in Article III Sec. 21-59.

STAFF COMMENTS

Based on the request as is, staff offers the following comments:

Staff is concerned that the size of the proposed zone change from *RA* to *INST-CUD* (2.52-acres) in an area of the county that is primarily zoned *RA* may be considered spot zoning. Therefore, it will be crucial that before voting, the board provide a statement of reasonableness that will address the legitimacy of this request (See *Statement of Reasonableness* below).

In addition, staff is concerned about the proximity of the proposed structure to the existing residential structures and a lack of proposed screening / buffering. The proposed institutional use (SIC 83) is classified as a *Group 2* land use per Section 21-216 that requires the addition of a *Type A* buffer to screen the use from the adjoining *Group 1* (residential) land uses (See *Attachment E*). Before voting on the request, staff recommends that conditions be added to the request that add the *Type A* screening requirements where applicable to the site.

PROCEDURE

The Planning Board must develop a “statement of reasonableness” because of the relatively small size of this rezoning request. In addition, a statement of consistency is also necessary to address the relationship between this request and applicable county adopted plans.

Procedurally, these statements should be developed prior to voting on the case. Staff offers the following for consideration in developing the aforementioned statements.

□ Statement of Reasonableness

While this statement should address spot zoning claims, it also should indicate why the decision is in the public’s interest. Typically, spot zoning cases reviewed by North Carolina courts have used the following test to determine their legitimacy:

1. Size of the tract
2. Compatibility with a comprehensive plan
3. Impact upon landowner, the immediate neighbors, and surrounding community
4. Relationship between newly allowed uses and those previously allowed

□ Statement of Consistency

The district definition for *INST* may provide a basis for a statement of consistency.

Adopt Statements of Reasonableness and Consistency